IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 7 OF 2007

IN

CRIMINAL APPEAL NO. 14 OF 2005

SHEIKH AMEER SAHEEB ....Applicant

Versus

STATE OF GOA THROUGH PUBLIC PROSECUTOR AND ANR ....Respondents

Mr. A. D. Bhobe,Advocate for the Applicant.

Mr. C.A. Coutinho, Advocate for the Respondents,absent.

Coram:- N. A. BRITTO, J.

Date:- 24th January, 2007

P.C.:-

Heard Mr. A. D. Bhobe, the learned Counsel on behalf of the applicant/accused.

By virtue of Judgment of this Court dated 19-10-2006, the accused was convicted and sentenced under Section 138 of the Negotiable Instruments Act, 1881 to undergo S.I. for fifteen days and was further directed to pay compensation to the complainant in the sum of Rs.2,75,000/-, in default to undergo S.I. for one year. The accused was also given time to surrender before the learned C.J.M. to undergo the sentence within a period of four weeks. That time was further extended by three weeks. The accused approached the Hon'ble Supreme Court and the Supreme Court was pleased not to entertain the appeal. Apparently, the accused did not show any inclination to compound the offence, when the accused appealed before the Supreme Court.

The present application has now been filed by the accused with a

prayer that the parties be permitted to compound the offence and set off the sentence. It appears that the accused has paid the compensation ordered to be paid to the complainant by five Demand Drafts dated 16-1-2007. The complainant has not filed any reply.

As held by this Court by an unreported Judgment dated 23-11-2006 in Criminal Miscellaneous Application No.373 of 2006 any application for compounding has got to be filed when the Court is seized of the matter and not after it becomes functus officio after pronouncement of the Judgment and that an application for compounding filed after the final disposal of the appeal in the High Court cannot be entertained. This is under the assumption that the complainant otherwise will be willing to compound the offence.

In the circumstances, I find there is no merit in this application and therefore the same is hereby dismissed.

N. A. BRITTO, J.

RD.